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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,812	12/29/2003	Gerald A. Hutchinson	APTLTD.043A	1883
20995	7590	04/12/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			WEEKS, GLORIA R	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/747,812

Applicant(s)

HUTCHINSON ET AL

Examiner

Gloria R Weeks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/25/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Response to Arguments

1. Applicant's arguments filed January 25, 2005 regarding claims 1, 2, 4, and 7-21 have been fully considered but they are not persuasive.

Regarding claims 1 and 10, Applicant has argued that based on column 3 lines 6-10, 25-29 and 50-54, McCullough et al. fails to disclose a method wherein the neck portion of a perform is used to convey the perform throughout the entire process. Examiner disagrees based on column 6 line 57- column 7 line 3 of McCullough et al. which states that alternatively, the entire process of blowing, filling and capping of the pouch occurs through the use of the neck portion of the pouch. The frame and transport means of McCullough et al. are not illustrated but are acknowledges as being understood and known to those skilled in the art of bag-in-box manufacturing and blow-molding, column 4 lines 36-44.

Applicant's arguments, see pages 5-6, filed January 25, 2005, with respect to the rejection(s) of claim(s) 3, 5 and 6 under 35 U.S.C. 103(a) over McCullough and Edwards have been fully considered and are persuasive. Examiner concedes that there is no logical motivation to modify the process of McCullough et al. to include the post filling decorating step of Edwards since the process of McCullough et al. is solely drawn to blow molding a preform in a box prior to filling. Therefore, the rejection was been withdrawn. However, upon further consideration, a new ground(s) of rejection was made in view of Gokeen et al. and Edwards.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1, 2, 4, 7-21 are rejected under 35 U.S.C. 102(b) as being anticipated by McCullough et al. (USPN 5,049,349).

In reference to claims 1, 2, 4 and 7-9, McCullough et al. discloses a process for manufacturing and filling flexible pouches, the process comprising: blow molding a preform (58, 62) having at least one layer of polyethylene terephthalate (column 2, lines 61-63) a neck portion (60) into a flexible pouch (14) having a neck finish (column 6, lines 42-57); filling said flexible pouch (14) with a desired product (column 6, lines 58-62); closing or capping the filled pouch (column 6 line 62-column 7 line 3); decorating and/or dressing the pouch (column 1, line 47-column 2, line 9) in a rigid container or box (12); wherein the neck portion (60) of the preform (58, 62) and pouch (14) are used to handle the preform (58, 62) and pouch (14) throughout the process (figures 4).

Regarding claims 10-21, McCullough et al. discloses an apparatus for manufacturing and filling flexible pouches comprising: a handling system (50) that conveys polyethylene terephthalate preforms (58) and/or flexible pouches (14) through a blow molding machine (68), a filling machine, and a closing or capping machine (column 6, line 34-column 7, line 3) that closes a filled flexible pouch (14), a system which decorates and/or dresses the flexible pouch (14) by placing the flexible, filled pouch (14) into a rigid container or a box (12).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards (US 2004/0148910) in view of Gokeen et al. (USPN 4,613,531).

With respect to claims 1-6, Edwards discloses a method of associating a flexible pouch (50) forming and filling apparatus (100) with transporting means (12) for conveying a filled pouch (50) to a decorating station (54) wherein the filled flexible pouch (50) is placed within a rigid box (54). Edwards does not disclose the specific process of forming and filling the flexible pouch prior to conveying the pouch to the decorating station. Gokeen et al. teaches a process of blow molding (21) a perform (18) having a neck portion into a flexible pouch (36) having a neck finish (figures 6-9), filling the flexible pouch with a desired product (44); closing the filled pouch (figure 10); wherein the neck portion of the perform (18) and pouch (36) is used to handle the perform and pouch through the process. It would have been obvious to one having ordinary skill in the art to modify the process of Edwards to include the method of blow molding and filling a flexible pouch, as taught by Gokeen et al. for the purpose of storing liquid in a one-piece sterile and aseptic container (Gokeen et al.-column 1 lines 27-30).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on 7:30 am - 6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gloria R Weeks
Examiner
Art Unit 3721


grw

April 4, 2005


Stephen F. Gerrity
Primary Examiner